

UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF CALIFORNIA

HEDDI LINDBERG,

Plaintiff,

v.

WELLS FARGO BANK N.A., et al.,

Defendants.

No. C 13-0808 PJH

**ORDER DISMISSING CASE AND
VACATING HEARING**

Plaintiff's complaint in the above-captioned case was dismissed with leave to amend on July 9, 2013. Plaintiff was given until August 8, 2013 to file an amended complaint. However, plaintiff did not file an amended complaint in response to the court's order, and instead filed a notice of appeal.

On October 16, 2013, the Ninth Circuit issued an order noting that it may lack jurisdiction over the appeal, because this court's order dismissing the case with leave to amend was not a final, appealable order. The Ninth Circuit gave the plaintiff/appellant 21 days to either voluntarily dismiss the appeal or to show cause as to why the appeal should not be dismissed for lack of jurisdiction. No response was filed, and on November 25, 2013, the Ninth Circuit dismissed the appeal for failure to respond to the October 16 order.

On November 18, 2013, defendant Wells Fargo filed a motion to dismiss in this court, seeking to dismiss the entire action with prejudice for failing to comply with a court order, pursuant to Federal Rule of Civil Procedure 41(b). Plaintiff's opposition was due on December 2, 2013, but no response has been filed.

1 Given plaintiff's failure to (1) file an amended complaint in response to this court's
2 July 9, 2013 order, (2) respond to the Ninth Circuit's October 16, 2013 order, and (3)
3 oppose or otherwise respond to Wells Fargo's motion to dismiss, the court finds that the
4 case must be DISMISSED with prejudice pursuant to Rule 41(b). The hearing on Wells
5 Fargo's motion to dismiss, scheduled for January 8, 2014, is VACATED.

6
7 **IT IS SO ORDERED.**

8 Dated: December 19, 2013



PHYLLIS J. HAMILTON
United States District Judge